

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \* \* \*

JOHN WITHEROW,

Plaintiff,

v.

CATHERINE CORTEZ-MASTO, et al.,

Defendants.

3:08-cv-00363-LRH-RAM

ORDER

Before this Court is Report and Recommendation of U.S. Magistrate Judge Robert A. McQuaid, Jr. (#69<sup>1</sup>) entered on January 14, 2010, recommending granting in part and denying in part defendants' Motion to Dismiss (#23) filed on March 23, 2009. Plaintiff filed his Objections to Magistrate Judge's Report and Recommendation (#72) on February 22, 2010, and defendants did not respond, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 3-2 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections of the plaintiff, the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636 (b) (1) and Local Rule IB 3-2. The Court determines that the Magistrate Judge's Report and Recommendation (#69) entered on January 14, 2010, should be adopted and

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<sup>1</sup>Refers to court's docket number.

1 accepted.

2 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation  
3 (#69) entered on January 14, 2010, is adopted and accepted, and defendants' Motion to Dismiss (#23)  
4 is GRANTED IN PART and DENIED IN PART as follows:

- 5 1. Counts I and II should be dismissed as to all defendants with prejudice;
- 6 2. Counts III and V through IX should be dismissed as to all defendants without  
7 prejudice with leave to amend;
- 8 3. Count IV should be dismissed as to defendants Cortez-Masto, Skolnik, Cox,  
9 Helling, Benedetti, Donat, Baca, Grafton, Haberfield, Walsh, Zappattini, Henley,  
10 Lietz, Stankus, and Baker without prejudice with leave to amend; and
- 11 4. The motion to dismiss on Count IV should be denied as to defendant LaGier.

12 IT IS SO ORDERED.

13 DATED this 30th day of March, 2010.

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17 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE